IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ petition No. 184 (SS) of 2007

Shashi Kumar Mishra,
S/o Sri Shiv Prasad Mishra,
R/o behind Aluminum Factory,
Naugaon Thagoo,
Khatima,
District – Udham Singh Nagar. **……Petitioner.**

Versus

1. State of Uttarakhand through its Presiding Officer, Industrial Tribunal, Haldwani, Nainital.

2. Ester Industries India Limited, Charubeta, Khatima through its Factory Manager, District – Udham Singh Nagar.

……Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri I.D. Paliwal, learned counsel for the petitioner and Sri N.P. Shah, learned counsel for respondent no. 1.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. *Issue a writ order or direction in the nature of Mandamus directing the respondent no. 2 to release the suspension allowances along with arrears in favour of the petitioner since 13.08.2004 to till date, during the pendency of the case no. 189 of 2002 which is pending before the Industrial Tribunal, Haldwani.*
2. *Any other order or direction which this Hon'ble court may deem fit any proper in the circumstances of the case*
3. *award the cost of the writ petition.*

The submission of the learned counsel for the petitioner is that petitioner was placed under suspension by respondent no.

2 for certain charges vide order dated 09.12.2001. Aggrieved with this order, petitioner has approached Labour Court, Haldwani, District – Nainital on the ground that disciplinary proceedings were initiated against the petitioner by the respondent no. 2 and the same is still pending. Petitioner was paid suspension allowance till 13.08.2004, however, thereafter no suspension allowance was paid to the petitioner. Disciplinary proceedings are still going on.

Since respondent no. 2 is private institution, this court cannot pass order for payment of suspension allowance to the petitioner.

Learned counsel for the petitioner has submitted that petitioner has already moved application before Labour Court, Haldwani with prayer for payment of suspension allowance which has been stopped by respondent vide order dated 13.08.2004 but since there is no Presiding Officer, in the Labour Court Haldwani, District – Nainital application of the petitioner is still pending.

In view of these circumstances, State Government of Uttarakhand is directed to take necessary action for appointment of Presiding Officer in Labour Court at Haldwani, Nainital at the earliest. Thereafter, petitioner may pursue his application before Labour Court for disposal.

With this direction, writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

March 19, 2007
Sksharma